

HOUSE
RESEARCH

ORGANIZATION bill analysis

8/28/86

SB 15
Harris, Mauzy, et al. (Berlanga)
(CSSB 15 by Berlanga)

SUBJECT: Pari-mutuel Wagering on Horse Racing
and Greyhound Racing

COMMITTEE: Urban Affairs: favorable, committee
substitute recommended

VOTE: 11 ayes--Pierce, Rangel, Berlanga, Connelly,
Criss, O. Garcia, Hilbert, A. Luna, Patrick, Polumbo,
Valigura

1 nay--Edwards

1 absent--Denton

WITNESSES: (on House companion bill HB 47):
For--Gary Keith, Texas Department of Agriculture; W.
Lawrence Prehn; Steven Shumake, Texas Horse Racing
Assn.; Steve Hicks, Veterinarians for Pari-mutuel;
Magin La Grave

Against--Trish Merrill, Texas Conference of Churches;
Larry Braidfoot, Anti-Crime Council of Texas; Weston
Ware, Christian Life Commission

On--Ann Richards, State Treasurer; Floyd Hacker, Texas
Department of Public Safety; Craig Pardue, Dallas
County

SENATE VOTE: On third reading:
17 ayes, 12 nays (Blake, Brown, Edwards, Farabee,
Green, Jones, Leedom, Montford, Parker, Parmer,
Sarpalius, Washington)

BACKGROUND: Pari-mutuel literally means "a mutual wager." The
term refers to a betting pool in which those who bet on
the winners of the first three places share the total
amount of money wagered, minus a percentage for the
management. For background information on pari-mutuel
betting see House Study Group Special Legislative
Report No. 93, Legalizing Horse-Race Betting (April 12,
1983).

DIGEST: CSSB 15, the proposed Texas Racing Act, would allow
pari-mutuel wagering on horse races and greyhound races
on a local-option county basis, subject to prior voter
approval in a statewide referendum on Nov. 4, 1986.
Should CSSB 15 not pass the Legislature by a two-thirds

vote of both houses to take immediate effect, then the statewide referendum would be held on Nov. 3, 1987. Regardless of any court ruling regarding the validity of the statewide referendum, the racing act would not take effect if the voters reject pari-mutuel wagering.

Persons who engage in pari-mutuel wagering on horse racing or greyhound racing would be exempt from prosecution under the anti-gambling provisions of secs. 47.01, et seq. of the Texas Penal Code.

After approval in the statewide referendum, a majority of voters in a county would have to approve the issuance of a racetrack license for that county. A local-option election could be initiated by either the county commissioners or a voter petition signed by a number of registered voters equal to five percent of the votes cast in the county in the last gubernatorial election. A local-option election could not be held until Jan. 1, 1987. If the local-option racing measure failed, another election could not be held in that county for five years.

Administration

CSSB 15 would create a Texas Racing Commission consisting of eight commissioners, six appointed by the governor and two ex-officio members: the chairman of the Public Safety Commission and the Comptroller of Public Accounts. Appointed commissioners, who would have to be ten-year residents of Texas, would serve staggered six-year terms. Two appointed members would have to be licensed veterinarians: one would be a specialist in the treatment of large animals and the other in the treatment of small animals. The other four members could not be veterinarians. Of these four members, two would be required to be knowledgeable about horse racing and the other two about greyhound racing. They could have no financial interests, nor be related to anyone with financial interest, in a racetrack. To prove this, they would be required to submit detailed, sworn financial statements. They would be prohibited from accepting payment from a racetrack association, placing a bet on a race in Texas, and accepting any winnings from a race in Texas. Racing commissioners would receive a per-diem allowance and reimbursement for expenses. The commission would be placed under the provisions of the Sunset Act and, unless renewed, would be abolished on Sept. 1, 1999.

Regulation and Enforcement

The racing commission would regulate all Texas racing involving wagering on horse racing and greyhound racing. The commission would be divided into two separate areas of expertise, three specializing in horse racing and three specializing in greyhound racing, for licensing and regulating purposes. The ex-officio members would serve in both areas of expertise. The commission would act as single unit regarding matters that deal with both horse racing and greyhound racing.

The commission would establish rules for racing and would oversee all aspects of horse races and greyhound races. All racing participants, except spectators, would be required to apply for a license at least every three years (the commission would have the authority to require license renewals at shorter intervals). The Department of Public Safety would check the fingerprints of all applicants. The commission could deny a license if this background check brought to light unethical or criminal behavior.

The commission would issue three types of horse-track licenses:

Class-1 tracks -- No more than four class-1 tracks could operate statewide. They could operate in a county, or a county adjacent to, a county with a population of 750,000 or more (Harris, Dallas, Bexar, and Tarrant). These tracks would race for a minimum of 45 days a year. The application fee would be at least \$15,000.

Class-2 tracks -- There would be no limit on the number of class-2 racetracks. These tracks would race for no more than 44 days a year, except a class-2 racetrack located in a national historical district could race more than 44 days a year. The application fee would be at least \$7,500.

Class-3 tracks -- These racetracks would be operated by a county or nonprofit fair. They could not race more than 16 days a year. The application fee would be at least \$2,500.

The commission could only license three greyhound racetracks in the state. The application fee would be at least \$20,000. Each greyhound track would have to

be located in a county with a population of 190,000 or more that includes all or part of a Gulf island (Galveston, Nueces, Cameron). Greyhound-racetrack operators could have as many as 300 evening and 150 matinee performances each year. (A performance would be not more than 13 consecutive races.)

A racetrack license applicant would have to be a U.S. citizen and a ten-year resident of Texas. If the applicant were a corporation, over 50 percent of the stock would have to be owned by Texans, and the corporation would have to be incorporated in Texas. A majority of any applying partnership, firm, or association would have to be ten-year residents of Texas. The commission could deny a racetrack license to anyone with a background of unethical or criminal behavior. No person could hold financial interests in more than two racetracks.

Before receiving a track license, an applicant would have to post a \$100,000 bond. The commission could issue a temporary license for racing in the county where the permanent track would be built, and it could deny a license to an applicant who began construction of the track prior to approval. Any construction or renovation plan that would cost more than \$5,000 would be subject to commission approval.

The commission would require all racing associations (racetrack operators) to keep financial records and submit financial statements. The commission could enter racetrack offices and subpoena records and witnesses. Commission employees would be prohibited from having any financial interest in a racetrack and from racing horses and greyhounds in Texas.

The commission would approve all racing officials for each race and would appoint three stewards and a state veterinarian to supervise each horse race meeting and three judges and a state veterinarian for each greyhound race. The commission would pay the three stewards for each horse race. The commission would employ one judge for a greyhound race, and the other two judges would be paid by the greyhound racetrack operator. The veterinarians at each race would be paid by the respective racetrack operators. Stewards and judges would be designated peace officers with the power to impose a maximum \$5,000 fine and a one-year suspension for unethical practices or violations of

rating rules. Offenses requiring greater penalties would be referred to the commission.

The Texas Veterinary Medical Diagnostic Laboratory would conduct tests for prohibited drugs. The commission would maintain and exchange criminal justice information and record checks with other states and agencies, and it would establish provisions for anonymous reporting of violations.

Touting (giving tips or soliciting bets), race fixing, allowing bookies into the track enclosure, and using illegal medication or credentials would be third-degree felonies (punishable by two-to-ten years in prison and a fine of up to \$5,000), and offenders would be subject to an indefinite suspension from racing or from the racing enclosure itself. For lesser offenses and any infraction of commission rules, offenders would be ejected from the racing enclosure. Entry after ejection would be a class-A misdemeanor (carrying a maximum penalty of a \$2,000 fine and one year in jail).

Persons of legal drinking age could wager. All minors younger than 16 years old would have to be accompanied at the tracks by a parent or guardian. All wagering would take place within the track enclosure. The commission would determine whether to prohibit Sunday racing and would grant tracks up to five additional racing days a year for "charity days," during which the track's revenues would be donated to charities.

Distribution of Revenue

A horse racing association would deduct up to 20 percent for every pari-mutuel pool to be split among the state, race winners and the association (racetrack operators). Five percent of the pool would go to the state, five percent to the purses for race winners, and eight or ten percent to the association, depending on the type of wager. On a regular wager (wagering on a single animal in a single race) the association would collect eight percent of the pari-mutuel pool. On multiple wagers (wagering on two or more animals in one or more races, or on one animal in more than one race) the association would collect ten percent of the pool.

The breakage (a few odd pennies per payback on each dollar wagered) on horse racing would be set aside for purse supplements for daily Texas-bred races and for special awards for Texas-bred horses.

A greyhound-racing association would deduct up to 20 percent from every pari-mutuel pool to be split among the state, race winners, and the association. Six percent of the pool and 50 percent of the breakage would go to the state. At least three-and-one-half percent of the pari-mutuel pool be used for the purse and would be divided between the dog owner (35 percent) and the contract kennel (65 percent). The association would receive between 8 1/2 percent and 10 1/2 percent of the pool depending on the type of wagering--regular or multiple. The remaining 50 percent of the breakage would be evenly divided between the association and the Texas Greyhound Breeders Association.

The Comptroller would collect the state's share of each pari-mutuel pool and deposit it in the General Revenue Fund. The commission would deposit the money it collected from licenses and fees in the State Treasury to the credit of the Texas Racing Commission Fund. The Texas Racing Commission Fund could only be appropriated to administer and enforce the Texas Racing Act. Any unappropriated money in the fund would revert to the General Revenue Fund at the end of the biennium. Funds could be appropriated from the General Revenue Fund to administer the act, however, the racing fund would have to reimburse the General Revenue Fund within one year of the appropriation, plus 12 percent interest.

County commissioners courts could levy and collect a 15-cent admission fee from tracks within the county. The counties could collect an additional 15-cent fee to be distributed among cities in the county according to their populations.

SUPPORTERS
SAY:

Pari-mutuel horse racing and greyhound racing would generate badly need revenue for the state. The Legislative Budget Office estimates that pari-mutuel wagering could raise \$3.6 million in fiscal 1987 and about \$69 million for the 1988-1989 biennium. By 1991, according to LBO estimates, pari-mutuel wagering could produce more than \$110 million a year for the General Revenue Fund. Local governments would receive more than \$7 million a year. Because only those who bet on horses and dogs would pay, this revenue source would be a voluntary contribution, easing the pressure for a large tax hike.

If the voters do not approve pari-mutuel wagering in a statewide referendum, it will not happen in Texas.

This is a democratic way to decide this issue--let the people speak.

Horse racing would provide broad economic benefits as well as public revenue. Racetracks would directly add \$418 million to the state's economy and create 11,000 new jobs. This direct contribution would produce a ripple effect adding a total of \$1.2 billion yearly and up to 20,000 jobs. Another 8,000 temporary jobs would be created in track construction, which should pump about \$563 million into the economy during the first two years.

Texas farms and rural areas would benefit particularly from pari-mutuel horse racing. The Department of Agriculture estimates that by 1992 pari-mutuel racing would generate \$138 million in economic activity for Texas farmers, with a ripple effect of \$427 million.

Texas is encircled by pari-mutuel states and by tracks in Mexico, which draw heavily on Texas bettors. If Texas had its own tracks, dollars now flowing to tracks out of state would stay at home.

Opponents note that several states, including Oklahoma, are reducing their take of the pari-mutuel pool to improve earnings for track operators. However, these changes only recognize that the industry had been overtaxed and should now be encouraged to expand. No other industry pays up to 80 percent of its gross profits in state tax, particularly when it is just starting. These tax breaks, far from signaling the industry's decline, are designed to ease its growing pains.

Regulation of horse racing and greyhound racing would not be a drain on state revenue. This bill specifically provides for repayment, with interest, in the unlikely event that the Texas racing commission should ever receive any general-revenue funds.

The bill has strong provisions to block infiltration of organized crime in the Texas racing industry. All persons, even grooms, would have background and fingerprint checks before they could obtain a license. Anyone with an unethical or criminal history would be prohibited from receiving a license to work at a racetrack. The commission would closely scrutinize racetrack financial records and could enter racetrack offices unannounced.

Gambling on horses already occurs in Texas, but only the bookies benefit. Pari-mutuel wagering would reduce the illegal betting by giving bettors an honest, state-regulated alternative.

It is unfair to blame the legitimate sports of horse racing and greyhound racing for the plight of compulsive gamblers. This social problem should be treated directly, not by a futile effort to prohibit pari-mutuel wagering.

The majority of racetrack bettors have incomes over \$30,000. Lower-income persons, if they bet, prefer other forms of gambling such as lotteries and numbers games. Horse racing competes mainly for a share of the entertainment spending of middle-income people.

While some people may be morally opposed to pari-mutuel wagering, their numbers are decreasing. Two polls taken in 1985, one of them by Texas A&M researchers, found more than 60 percent of Texans support pari-mutuel racing. In any case, morality should not be legislated. Texas government's role should be to regulate pari-mutuel operations to ensure a fair, legal outlet for those who wish to participate. Besides, no race track would be located in any county unless a majority of those voting in a local-option election approved.

Greyhound racing would help provide a year-round tourist industry for the Gulf coast. Greyhound racing would help reduce high unemployment in Galveston, Nueces, and Cameron counties. Texas is the second largest producer of greyhounds in the United States and the state should benefit from this potential resource.

Greyhound racing can only be held in coastal counties because of the climate. Greyhound racing is a 300-day-a-year sport -- it would be too cold in other parts of the state to hold these outdoor races year-round.

Greyhound racing uses mechanical lures for the dogs to chase. No live animals would be endangered. Besides it is already illegal in Texas to abuse a live animals.

No industrial development bonds would be available to provide a public subsidy for construction of

racetracks. The federal government already prohibits use of these bonds to finance racetracks.

Arguments about the constitutionality of the ten-year residency requirement and the statewide referendum are unfounded. There is similar residency language in other statutes.

OPPONENTS
SAY:

Whenever gambling is legal, illegal gambling also increases and organized crime prospers. FBI director William Webster has said he knows of "no situation in which legalized gambling was in place where we did not eventually have organized crime." Legalized gambling introduces a wide segment of the population to betting. A legal betting system cannot compete with illegal book-making operations, which let bettors gamble on various kinds of events on credit. Bookies also never report winnings to the I.R.S.

Gambling also introduces public corruption. The Justice Department's organized-crime section found that where organized crime is involved in gambling there is serious corruption of the police and the criminal justice system. The large sums of money involved also attract illegal manipulation, or race "fixing." Louisiana's experience in 1981 is illustrative: Because of inaction by the racing commission in cases of attempted bribery, use of illegal drugs, and race fixing, all of the state racing commissioners were forced to resign.

Legalized gambling exacerbates the problem of compulsive gambling. It not only provides the "addict" with more opportunities to gamble, it also brings out many latent compulsive gamblers. Like alcoholism, compulsive gambling can ruin careers and families.

Legalized gambling is especially hard on the poor, who are encouraged to squander what little money they have on the get-rich-quick dream. The state share of gambling profit should at least be dedicated to Aid to Families with Dependent Children or some other problem to help the poor, who would suffer disproportionately from this bill. State-sponsored gambling in effect imposes a regressive tax because gamblers are drawn disproportionately from among the poor. Government cannot prevent people from throwing their money away, but neither should it become a party to the transaction.

Pari-mutuel revenues in surrounding states have never produced more than one percent of a state's budget. In fact, at least eight states have reduced, or are in the process of reducing, their share of the pari-mutuel take. New Jersey, for example, has reduced its take to 0.5 percent. Oklahoma lowered its take to 2 percent on the first \$100 million and 4 percent on the next \$50 million, then 6 percent on the rest. An accountant commissioned to study betting in Texas for the Texas Horse Racing Association has said that Texas must lower its proposed share as well if racing is ever to flourish.

If this act is passed, the state would end up subsidizing pari-mutuel horse racing. It is a dying industry. The National Association of State Racing Commissions reports that total state revenues from gambling have declined more than \$71 million in the past four years. Attendance is down, and the amounts wagered have not kept up with inflation. Further, pari-mutuel wagering would absorb money that otherwise would be spent on consumer goods, the sales of which add to the state's sales-tax revenue. The estimates of jobs created and taxes collected and "economic-multiplier ripple effects" are seriously inflated. Even if they were right, these benefits would not balance out the destructive impact of pari-mutuel betting. State-sponsored gambling is bad social policy.

The ten-year residency requirement for track owners could violate the right to equal protection guaranteed by the U.S. Constitution. Federal courts have struck down many similar durational residency laws.

OTHER
OPPONENTS
SAY:

Greyhound racing should not be limited to just three coastal counties. Every county should have the opportunity to have greyhound racing.

NOTES:

The committee substitute to SB 15 differs from the version passed by the Senate in that the Senate version does not provide the alternative election date of Nov. 3, 1987 if the bill should fail to pass by a two-thirds vote of both houses to take effect immediately (if the bill passes by a simple majority, it cannot take effect for 90 days after the Sept. 4 adjournment of the special session -- Dec. 4, 1986, after the Nov. 4, 1986 general election). Sen. Bob McFarland attempted to amend SB 15 to include a similar provision, but the amendment failed to receive the

two-thirds vote necessary to adopt an amendment on third reading. The committee substitute also provides that if the statewide referendum fails, the act is void, no matter if the courts subsequently rule that the referendum was invalid.